

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO.
v.	:	DATE FILED:
MAXWELL DUNCAN	:	VIOLATIONS: 18 U.S.C. §1343 (Wire Fraud - 20 counts)

INDICTMENT

COUNTS ONE THROUGH TWENTY

THE GRAND JURY CHARGES THAT:

1. In or about Summer 1996, Beth Hepzibah, a religious congregation based in the Philadelphia area, was seeking to take control of a property located at 1020 Ridge Avenue, Darby, Pennsylvania, in order to house the congregation and to offer community-based services from that location, including a day-care center, and formed Community Social Services Inc. (“CSSI”) for that purpose.

2. Prior to that time, Bunting Friendship Freedom House (Bunting), another charitable organization, owned and operated from 1020 Ridge Avenue, among other properties; however, the Internal Revenue Service (IRS) seized 1020 Ridge Avenue on or about July 16, 1996, because Bunting owed the IRS a tax liability of approximately \$139,386.

3. In or about August 1996, defendant MAXWELL DUNCAN, a tax accountant, was retained by CSSI to negotiate an agreement with the IRS regarding 1020 Ridge Avenue that would permit CSSI to occupy and use the property.

4. Defendant MAXWELL DUNCAN negotiated an installment agreement with the IRS, signed on or about September 17, 1996, under which CSSI leased 1020 Ridge Avenue from Bunting in return for CSSI's payment of Bunting's tax liability. In return, the IRS would permit CSSI to use 1020 Ridge Avenue as long as payments were timely made. Under the installment agreement, CSSI made an initial payment of approximately \$7,000, paid when the agreement was signed, which was to be followed by monthly payments of \$3,500 until Bunting's tax liability of approximately \$139,386, plus interest, was paid. CSSI paid DUNCAN \$1,500 up front to negotiate this agreement.

The Scheme

5. From in or about September 1996 until in or about February 2001, defendant MAXWELL DUNCAN devised and intended to devise a scheme to defraud CSSI, and to obtain money by means of false and fraudulent pretenses, representations, and promises.

It was part of the scheme that:

6. Defendant MAXWELL DUNCAN defrauded CSSI of approximately \$148,900, which CSSI provided to him with the intention that he pay those monies to the IRS under the installment agreement. DUNCAN converted those monies to his own use.

7. At or about the time that the installment agreement was signed, defendant MAXWELL DUNCAN instructed CSSI to make the IRS payments through him by sending him the payments by wire transfer, which he agreed then to pay to the IRS. DUNCAN informed CSSI that this arrangement would protect CSSI by ensuring a "paper trail" with the IRS and by avoiding an IRS revenue officer whom DUNCAN claimed had a grudge against CSSI.

8. Defendant MAXWELL DUNCAN assured CSSI that he could be trusted to make the payments because of his fiduciary duties to CSSI, telling one board member known to the grand jury that “making a payment to me was the same as making it to the IRS.”

9. To execute the scheme to defraud, defendant MAXWELL DUNCAN provided a CSSI board member, known to the grand jury, with wire transfer instructions for the payments specifying that the payments were to be transferred to DUNCAN and that the funds were then to be used to pay the IRS.

10. At defendant MAXWELL DUNCAN’s direction, from on or about November 29, 1996, to on or about December 22, 2000, CSSI made a total of approximately 36 wire transfers of funds, totaling approximately \$155,900, from Beneficial Savings Bank and Corestates Bank, located in Yeadon, Pennsylvania, and the Philadelphia Federal Credit Union, located in Philadelphia, Pennsylvania, to DUNCAN’s bank account at the Navy Federal Credit Union located in Merrifield, Virginia. CSSI made these wire transfers pursuant to the installment agreement intending that DUNCAN would forward the payments to the IRS.

11. Defendant MAXWELL DUNCAN forwarded to the IRS only the December 1996 monthly payment of approximately \$3,500, made by CSSI on or about November 29, 1996, and the March 1997 monthly payment of approximately \$3500, made by CSSI on or about March 19, 1997. DUNCAN defrauded CSSI of the remaining approximately \$148,900 that CSSI transferred to him for the purpose of paying the IRS.

12. When CSSI was late in making a payment, or the amount of the payment was less than \$3,500 (which often occurred because CSSI was short of funds), defendant MAXWELL DUNCAN contacted CSSI board members to complain that unless payments were made timely

and in full, the IRS would “padlock” the 1020 Ridge Avenue property. DUNCAN made these statements fraudulently to induce CSSI to continue making payments, knowing that he would not forward them to the IRS and that he would cause the installment agreement to go into default.

13. In or about September 1997, an IRS revenue officer visited 1020 Ridge Avenue to seize the property and informed CSSI board members then present that the IRS had not been receiving payments. When CSSI board members questioned defendant MAXWELL DUNCAN about the visit, DUNCAN falsely assured them that he had in fact been making payments but the revenue officer was unaware of the payments because of faulty IRS record keeping and because the payments had been made directly to the Federal Reserve.

14. In or about September 1997, defendant MAXWELL DUNCAN spoke with IRS officials informing them that, although CSSI was making payments to him, he was deducting his professional fees from the payments, leaving no monies for the IRS. DUNCAN falsely claimed that he had a separate agreement with CSSI that permitted him to deduct his fees from IRS payments when he knew that, in fact, no such agreement existed.

15. Defendant MAXWELL DUNCAN fraudulently attempted to delay IRS collection action by filing complaints with the IRS Taxpayer Advocate, knowing that such action would temporarily stop efforts to collect the tax. While these complaints were pending, DUNCAN continued to receive IRS payments from CSSI that he converted to his own use.

16. In addition to the approximately \$148,900 that defendant MAXWELL DUNCAN obtained by fraud, CSSI paid DUNCAN approximately \$5,600 in accounting fees in periodic payments by wire transfer generally in \$500 increments. DUNCAN knew that the \$500 payments, totaling approximately \$5,600, were the only fees to which he was entitled from CSSI,

aside from the initial approximately \$1,500 fee he was paid to negotiate the installment agreement. DUNCAN further knew that the remaining monies paid to him by CSSI were not fees but were intended as IRS payments.

17. Beginning in or about late 1999, defendant MAXWELL DUNCAN fraudulently induced CSSI to increase the amount of the IRS payments by falsely informing CSSI board members that the IRS had agreed to stop collection action if CSSI made accelerated payments, knowing that there was no such agreement and that he would keep the increased payments for himself. Based on DUNCAN's fraudulent statements, CSSI began gradually increasing the amount of the payments until they reached approximately \$7,000 per month in Summer 2000.

18. In or about December 2000, CSSI board members realized that CSSI had paid defendant MAXWELL DUNCAN a total of approximately \$160,000 pursuant to the installment agreement and believed that the liability to the IRS should have been satisfied. They asked DUNCAN to provide an IRS payment history and current balance; however, DUNCAN informed them that the then-current balance was approximately \$250,000. When questioned how the liability could have grown notwithstanding the payments, DUNCAN falsely stated that the increase was due to interest and penalties and did not disclose that he had been converting the IRS payments to his own use. DUNCAN further falsely stated that CSSI owed him approximately \$200,000 in fees.

19. In or about January 2001, a CSSI board member contacted defendant MAXWELL DUNCAN to request copies of cancelled checks showing that DUNCAN had made payments to the IRS on behalf of CSSI. DUNCAN promised to compile a payment history but never provided it or copies of cancelled checks to CSSI.

20. On or about February 20, 2001, CSSI sent a letter to defendant MAXWELL DUNCAN requesting that he give CSSI a detailed accounting of services that he provided to CSSI and monies that he had received from CSSI as fees. DUNCAN failed to respond to the letter.

21. On or about each of the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, the defendant

MAXWELL DUNCAN,

for the purpose of executing the scheme described above, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below for each count, each transmission constituting a separate count of this indictment:

<u>Count</u>	<u>Date</u>	<u>Description</u>
1	March 31, 1999	A wire transmission of approximately \$3,600 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
2	May 5, 1999	A wire transmission of approximately \$3,600 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
3	June 4, 1999	A wire transmission of approximately \$3,700 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia

<u>Count</u>	<u>Date</u>	<u>Description</u>
4	July 1, 1999	A wire transmission of approximately \$3,700 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
5	August 2, 1999	A wire transmission of approximately \$3,800 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
6	September 28, 1999	A wire transmission of approximately \$3,900 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
7	October 14, 1999	A wire transmission of approximately \$3,900 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
8	November 12, 1999	A wire transmission of approximately \$2,000 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
9	December 8, 1999	A wire transmission of approximately \$4,000 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
10	January 24, 2000	A wire transmission of approximately \$4,400 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia

<u>Count</u>	<u>Date</u>	<u>Description</u>
11	March 1, 2000	A wire transmission of approximately \$3,200 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
12	March 6, 2000	A wire transmission of approximately \$1,600 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
13	April 24, 2000	A wire transmission of approximately \$5,000 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
14	May 19, 2000	A wire transmission of approximately \$5,400 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
15	July 6, 2000	A wire transmission of approximately \$8,600 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
16	August 29, 2000	A wire transmission of approximately \$7,000 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
17	September 19, 2000	A wire transmission of approximately \$7,000 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia

<u>Count</u>	<u>Date</u>	<u>Description</u>
18	October 23, 2000	A wire transmission of approximately \$7,000 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
19	November 21, 2000	A wire transmission of approximately \$7,000 from Beneficial Savings Bank in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia
20	December 22, 2000	A wire transmission of approximately \$7,000 from Philadelphia Federal Credit Union in Philadelphia, Pennsylvania, to the Navy Federal Credit Union, in Merrifield, Virginia

All in violation of Title 18, United States Code, Section 1343.

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney